Notice of Allowability	Application No.	Applicant(s)	
	10/632,295	LOVEDAY ET AL.	·
	Examiner	Art Unit	
	William K Cheung	1713	
The MAILING DATE of this communication appr All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85) NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT R of the Office or upon petition by the applicant. See 37 CFR 1.313	(OR REMAINS) CLOSED in this ap ) or other appropriate communication (IGHTS. This application is subject t	plication. If not included will be mailed in due control	d ourse. <b>THIS</b>
1. This communication is responsive to <u>Amendment</u> .			
2. The allowed claim(s) is/are <u>1-46</u> .			
3. The drawings filed on are accepted by the Examiner.			
<ul> <li>4. Acknowledgment is made of a claim for foreign priority unally all blacks and blacks are all blacks.</li> <li>1. Certified copies of the priority documents have 2. Certified copies of the priority documents have 3. Copies of the certified copies of the priority documents have all blacks.</li> <li>* Certified copies of the certified copies of the priority documents have all blacks.</li> <li>* Certified copies not received:</li> </ul>	e been received. e been received in Application No		on from the
Applicant has THREE MONTHS FROM THE "MAILING DATE" noted below. Failure to timely comply will result in ABANDONN THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.		complying with the requ	uirements
5. A SUBSTITUTE OATH OR DECLARATION must be subm INFORMAL PATENT APPLICATION (PTO-152) which give	nitted. Note the attached EXAMINER es reason(s) why the oath or declara	'S AMENDMENT or NC ation is deficient.	TICE OF
<ol> <li>CORRECTED DRAWINGS (as "replacement sheets") must</li> <li>(a) including changes required by the Notice of Draftspers</li> <li>1) hereto or 2) to Paper No./Mail Date</li> <li>(b) including changes required by the attached Examiner' Paper No./Mail Date</li> <li>Identifying indicia such as the application number (see 37 CFR 1 each sheet. Replacement sheet(s) should be labeled as such in the such sheet.</li> </ol>	son's Patent Drawing Review (PTO s Amendment / Comment or in the C .84(c)) should be written on the drawing	Office action of	oack) of
7. DEPOSIT OF and/or INFORMATION about the depo attached Examiner's comment regarding REQUIREMENT	sit of BIOLOGICAL MATERIAL r FOR THE DEPOSIT OF BIOLOGIC	must be submitted. No AL MATERIAL.	ote the
<ul> <li>Attachment(s)</li> <li>1. ☐ Notice of References Cited (PTO-892)</li> <li>2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)</li> <li>3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/C Paper No./Mail Date 0802)</li> <li>4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material</li> </ul>	5. Notice of Informal P 6. Interview Summary Paper No./Mail Dat 7. Examiner's Amendr 8. Examiner's Stateme 9. Other	(PTO-413), te ment/Comment	,
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## **DETAILED ACTION**

- 1. In view of amendment filed August 2, 2004, new claims 20-68 have been added.
- 2. In view of Terminal Disclaimer filed August 2, 2004, the invention of claims 1-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,274,684 is withdrawn.
- 3. Newly submitted claims 47-68 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The newly added claims 47-68 are restricted because of their combination and subcombination relationship to each other.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 47-68 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

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## **EXAMINER'S AMENDMENT**

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Kevin M. Faulkner (Registration No. 45,427) on August 23, 2004.

4. Cancel nonelected claims 47-68.

## Allowances

- 5. Claims 1-46 are allowed.
- 6. The following is an examiner's statement of reasons for allowability:

The present claims are allowable over the closest references of Canich et al. (WO97/48735), and Schrock et al. (US 5,889,128).

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In light of the above discussion, it is evident as to why the present claims are patentable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, and to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

## Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William K. Cheung

**Primary Examiner** 

WILLIAM K. CHEUNG PRIMARY EXAMINER

August 23, 2004